

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 8846 of 2004

For Approval and Signature:

HON'BLE MR.JUSTICE JAYANT PATEL

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1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the concerned : NO
Magistrate/Magistrates, Judge/Judges, Tribunal/Tribunals?

VADODARA JILLA SARVODAYA SEVA MANDAL

Versus

REGIONAL DIRECTOR

Appearance:

1. Special Civil Application No. 8846 of 2004
MS MAMTA R VYAS for Petitioner No. 1
MR PK JANI for Respondent No. 1
MR HD DAVE, Ld. AGP for Respondent No. 2-3
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CORAM : HON'BLE MR.JUSTICE JAYANT PATEL

Date of decision: 09/08/2004

ORAL JUDGEMENT

1. Rule. Mr.Jani, learned Counsel waives service of notice of rule on behalf of respondent No.1 and Mr.Dave, learned AGP waives service of notice of rule on behalf of respondents No.2 and 3. With the consent of the parties, the matter is taken up for final hearing today.

2. The short facts of the case are that the petitioner initially applied for permission to start D.B.Ed. (G.B.T.C.) College at Khatamba, District Vadodara. The petitioner submitted application to respondent No.1, N.C.T.E. However, as No Objection Certificate (NOC) of the State Government was not produced, respondent No.1 did not consider the same. The State Government, thereafter, declined the application for "NOC", which came to be challenged by the petitioner by preferring SCA No.2260/2004. In the said application, on 9-3-2004 this Court passed the order directing the State authority to hear afresh and pass necessary orders on or before 31-3-2004. The State Government once again rejected the application of the petitioner and the petitioner had preferred SCA No.5623/2004 once again for challenging the decision of the State Government. In the said petition, this Court ultimately directed the State Government to grant NOC within a period of ten days from the date of the order. The NOC ultimately was granted on 22-6-2004, copy whereof is produced on page 34 of this petition.

3. The petitioner has approached this Court by preferring this petition to direct NCTE to consider the same for granting approval for college.

4. It appears that pending the petition, the petitioner once again applied to respondent No.1 NCTE by submitting the application dated 22-7-2004 as per the new Rules, requiring the application-fee of Rs.40,000/= instead of Rs.5,000/= and the NOC of the State Government is also attached, as per the case of the petitioner. The matter is pending at the level of NCTE.

5. I have heard Ms.Vyas, learned Counsel for the petitioner, Mr.Jani, learned Counsel for respondent No.1 and Mr.Dave, learned AGP for respondents No.2 and 3.

6. Upon hearing the learned Counsel appearing for the parties, it appears that there is no dispute on the

point that the petitioner has submitted the application on 22-7-2004 as per the new requirements including for payment of the fees of Rs.40,000/= and others. However, Ms.Vyas for the petitioner submitted that as the petitioner is fighting for the litigation since a long time and it is on account of the order passed by this Court earlier, the State Government has issued NOC and she submitted that there was delay on the part of the State Government in not taking proper steps in time. She also submitted that as the academic year for B.Ed. in Gujarat State has yet not started and it may be delayed also, and she submitted that as per the petitioner the application for grant of permission is ready on all respects and respondent No.1 should be directed to decide the same within some reasonable time. She also submitted that the petitioner is desirous to admit students for the academic year 2004-05, provided the permission is granted for such purpose well in time.

7. On behalf of the respondents, Mr.Jani appearing for NCTE submitted, inter alia, that as such if the petitioner is to be included in admission for the academic year 2004-05, application should have been submitted latest by 31st December of the previous year i.e. 31-12-2003 and he submitted that as such when the petitioner has submitted the application on 22-7-2004, as of right the petitioner cannot insist that for the academic year 2004-05 the petitioner would be entitled to admit students even if the permission is granted by NCTE. Mr.Jani also submitted that as per the required procedure respondent No.1 has to examine the application and if any deficiencies are there in the application, the necessary details shall also be required to be called for and thereafter there will be inspection and subsequently appropriate decision can be rendered. Mr.Jani also submitted that all the processes may require more time on the part of NCTE to take appropriate final decision.

8. On behalf of the State authorities, it has been submitted by Mr.Dave, learned AGP that as such the State has issued NOC and it is for NCTE now to consider the matter. However, upon the admission pattern of the students, if the NCTE permission is given, Mr.Dave submitted that he has no clear instructions on the point as to whether the admissions are to be given through Centralized Admission System or the concerned College is having such power. He submitted that respondent No.2 herein shall examine the same and may be put to the liberty to communicate the petitioner on the said aspects.

9. Having considered the above, it appears that when the application is made by the petitioner to respondent No.1, it would be expected for respondent No.1 to take appropriate decision within some reasonable time. In normal circumstances, it would be expected for respondent No.1 to decide the application within a period of three months from today. However, if any deficiencies are there in the application and if there is any delay on the part of the petitioner in complying with the same, it may stand on a different footing. At the same time, while considering the application, respondent No.1 may decide the request as to whether the petitioner can be permitted to admit the students or to start college for academic year of 2004-05 or 2005-06. While considering the said aspect, respondent No.1 may also take into consideration the normal beginning of the term in the State, keeping in view the last academic year of 2003-04. As regards the pattern of admission to the students, there is no clear stand on the part of the State Government in this regard and there are rival contentions and, therefore, the authority of the State Government can be directed to examine the same.

10. In view of the above, I find that the following directions shall meet with the ends of justice:

10.1) Respondent No.1 shall consider the application of the petitioner in light of the observations made by this Court hereinabove and will take appropriate decision in accordance with law as early as possible, preferably within a period of three months from the date of receipt of the order of this Court.

10.2) It is clarified that in the event of any delay on the part of the petitioner in supplying proper details, the said period of three months shall get automatically extended to that extent.

10.3) Respondent No.2 shall examine the question on the aspects as to whether the Centralized Admission pattern will be applicable to the students of the petitioner College or not and shall communicate the same to the petitioner within a period of two months from the date of receipt of the order of this Court.

10.4) The petitioner shall abide by the directions which may be issued by respondents No.1 and 2 as

the case may be, for admitting the students in case the permission is granted by NCTE for the academic year 2004-05 or 2005-06. If the permission is not granted for such purpose, the rules prevailing for admission of the students for the academic year 2005-06 shall also apply accordingly.

11. The petition is disposed of in terms of the aforesaid directions. Rule partly made absolute to the aforesaid extent. Considering the facts and circumstances, no costs. Direct service is permitted.

9-8-2004 (Jayant Patel, J.)

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